

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1119

Citations Affected: IC 5-10.2-4-8; IC 36-8.

Synopsis: Public safety leaves of absence; retiree reemployment. Removes the \$35,000 salary exemption for retired members of the public employees' retirement fund (PERF) and the teachers' retirement fund (TRF) who are reemployed in a covered position. Allows an appointing authority to grant a leave of absence to a police officer or firefighter for service in an elected office. Establishes certain rights concerning retirement or pension funds, salaries, promotions, and seniority for a police officer or firefighter who is on a leave of absence. Requires a police officer or firefighter who is an officeholder to pay the assessment or contribution to the officeholder's pension fund for the period of the leave in order to receive service credit for the leave. Authorizes the officeholder's employer to pay all or a part of the assessment or contribution for the officeholder. Allows a retired member of the 1925 police pension fund (1925 fund), the 1937 firefighters' pension fund (1937 fund), the 1953 police pension fund (1953 fund), or the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to: (1) be rehired, not less than 30 days after retirement, by the same unit that employed the member as a police officer or firefighter for a position other than that of a full-time, fully paid police officer or firefighter; and (2) continue to receive a retirement benefit from the 1925 fund, 1937 fund, 1953 fund, or 1977 fund. Allows the reemployment provision to be implemented unless the local board (for the 1925, 1937, and 1953 funds) or the PERF board (for the 1977 fund) receives from the Internal Revenue Service a determination that prohibits the implementation. **(This conference committee report: (1) adds and removes language to resolve a conflict between HB 1119 and SB 51 concerning the reemployment of retired members of PERF and TRF; and (2) adds language to specify that the establishment of a policy regarding the ability of a police officer or firefighter, during a leave of absence, to participate in any promotional process or earn seniority is subject to the existing disciplinary procedures of the police officer's or firefighter's department.)**

Effective: July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1119 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-10.2-4-8, AS AMENDED BY SEA 51-2008,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2008]: Sec. 8. (a) As used in this section, "exempt amount"
- 5 means, in the case of a member who has not attained the Social
- 6 Security normal retirement age for unreduced benefits, thirty-five
- 7 thousand dollars (\$35,000); computed for the calendar year in which
- 8 a retired public employees' retirement fund member is reemployed and
- 9 computed for the fiscal year in which a retired teachers' retirement fund
- 10 member is reemployed.
- 11 (b) This subsection does not apply to a member who is employed by
- 12 the department of education; to a member of the Indiana state teachers'
- 13 retirement fund who is reemployed more than thirty (30) days after the
- 14 member's retirement in a position covered by the Indiana state teachers'
- 15 retirement fund; or after June 30, 2008, a member of the public
- 16 employees' retirement fund who is reemployed more than thirty (30)
- 17 days after the member's retirement in a covered position: (a) If a
- 18 member who is receiving retirement benefits and who has not attained
- 19 the Social Security normal retirement age for unreduced benefits:
- 20 (1) becomes reemployed in a position covered by this article and
- 21 (2) earns in that position more than the exempt amount;

more than thirty (30) days after the member's retirement, the member's retirement benefit payments shall stop, and continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, the member shall begin making contributions as required in IC 5-10.2-3-2, However, and the member's employer shall make contributions shall be made throughout the member's period of reemployment. The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.

(c) (b) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than

(1) thirty (30) days after the member's retirement, for a member of the public employees' retirement fund; or

(2) thirty (30) days after the member's retirement, for a member of the Indiana state teachers' retirement fund;

the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(d) (c) This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

(e) (d) The following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

(f) (e) The thirty (30) day period provided for in subsection (c)(2) this section may be implemented unless the board of trustees of the Indiana state teachers' retirement fund receives a determination from the Internal Revenue Service prohibiting the implementation.

SECTION 2. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed him the police chief or fire chief. This appointing authority may also grant

1 a leave of absence to any other full-time, fully paid police officer or
2 firefighter.

3 (b) A leave of absence under subsection (a) shall be granted for
4 service in the Indiana general assembly. ~~and A leave of absence under~~
5 **subsection (a)** may also be granted ~~only for service in any other~~
6 **elected office** or for one (1) of the following reasons:

7 (1) Sickness.

8 (2) Disability.

9 (3) Sabbatical purposes.

10 However, a leave of absence because of disability may not be granted
11 to a member of the 1977 fund under this subsection unless a leave
12 granted under subsection (g) has expired without disability benefits
13 having been paid from the 1977 fund. In the case of such an expiration,
14 a leave for purposes of disability may be granted under this subsection
15 but only until the member's eligibility for disability benefits is finally
16 determined.

17 (c) Before a leave of absence may be granted for sabbatical
18 purposes, the member must submit a written request explaining and
19 justifying the leave to the appointing authority. Sabbatical purposes
20 must be related to the improvement of the member's professional
21 performance and skills, such as education, special training, work
22 related experience, and exchange programs.

23 (d) This subsection applies to leaves of absence granted under
24 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for
25 a period of not more than one (1) year, determined by the appointing
26 authority, and may be renewed upon written request of the member.

27 (e) This subsection applies to leaves of absence granted for service
28 ~~in the Indiana general assembly.~~ **if an elected office.** A police officer
29 or firefighter ~~who~~ serves in the general assembly ~~he~~ shall be granted a
30 leave for the time spent in this service, including the time spent for
31 committee or legislative council meetings. **A police officer or**
32 **firefighter who serves in any other elected office may be granted a**
33 **leave for the time spent in this service. Leave for service in an**
34 **elected office does not diminish a police officer's or firefighter's**
35 **rights under the police officer's or firefighter's retirement or**
36 **pension fund, except as provided in section 10 of this chapter, or**
37 **advancement on the police officer's or firefighter's department**
38 **salary schedule. For these purposes, the police officer or firefighter**
39 **is, despite the leave, considered to be a member of the department**
40 **during that time.**

41 (f) This subsection applies to leaves of absence granted under
42 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive
43 compensation in an amount determined by the appointing authority, up
44 to a maximum amount that equals ~~his~~ **the member's** salary before the
45 leave began.

46 (g) This subsection applies only to members of the 1977 fund. The
47 local board may grant a leave of absence for purposes of disability to
48 full-time, fully paid police officers or firefighters (including the police
49 chief or fire chief). The leave is subject to the following conditions:

50 (1) The police chief or fire chief must make a written
51 determination that there is no suitable and available work on the

appropriate department for which the fund member is or may be capable of becoming qualified.

(2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.

(3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.

(4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.

(5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

(i) This subsection applies to leaves of absence granted under subsection (a) or (b). An appointing authority shall establish a policy in writing that specifies whether a police officer or firefighter is entitled, during a leave of absence, to participate in any promotional process or earn seniority. A policy established under this subsection is subject to a department's existing disciplinary procedures. An appointing authority shall reinstate a police officer or firefighter returning from a leave at the merit or permanent rank determined under the policy established under this subsection. However, except as otherwise provided by federal law, an appointing authority is not required to reinstate a police officer or firefighter in the job that the police officer or firefighter held at the time the police officer's or firefighter's leave began.

SECTION 3. IC 36-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as provided in subsection (b) or (c), a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member

would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member.

SECTION 4. IC 36-8-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:

(1) be rehired by the same municipality that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 5. IC 36-8-7-12.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.7. (a) Not less than thirty (30) days after a member retires from a fire department covered by this chapter, the member may:

(1) be rehired by the same unit that employed the member as a firefighter for a position other than that of a full-time, fully paid firefighter; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 6. IC 36-8-7.5-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:

(1) be rehired by the same consolidated city that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 7. IC 36-8-8-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11.5. (a) Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member may:

(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit

1 **under this chapter.**

2 **(b) This section may be implemented unless the PERF board**
3 **receives from the Internal Revenue Service a determination that**
4 **prohibits the implementation.**

(Reference is to EHB 1119 as reprinted February 27, 2008.)

Conference Committee Report
on
Engrossed House Bill 1119

Signed by:

Representative Austin
Chairperson

Senator Weatherwax

Representative Wolkins

Senator Lanane

House Conferees

Senate Conferees